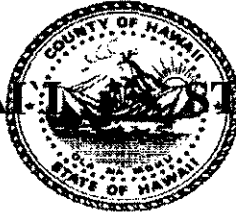


COUNTY OF HAWAII STATE OF HAWAII



RESOLUTION NO. 416 07

RESOLUTION AUTHORIZING THE EXEMPTION OF CERTAIN ZONING CODE REQUIREMENTS FOR THE WAIKOLOA EMPLOYEE HOUSING PROJECT PURSUANT TO CHAPTER 46-15 OF THE HAWAII REVISED STATUTES

WHEREAS, on September 7, 2006, the Hawai'i County Council adopted Resolution No. 439-06 which designated the Waikoloa Workforce Housing Project (WWHP) as an "Experimental and Demonstration Housing Project" as provided by Section 46-15, Hawai'i Revised Statutes (HRS); and

WHEREAS, since the approval of Resolution No. 439-06, the Office of Housing and Community Development and UniDev Hawai'i, LLC, has determined that it is necessary to revise a few of the previously approved exemptions and to add some exemptions; and

WHEREAS, as the project progresses it may be necessary to further amend the list of exemptions for future phases; and

WHEREAS, the Office of Housing and Community Development wishes to amend Resolution No. 439-06.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAII, that the project site, identified on a map attached hereto as Exhibit "A", shall be exempt from certain laws, code requirements and standards, as established by the Department of Public Works and the Planning Department as identified in Exhibits "B" and "C"; and

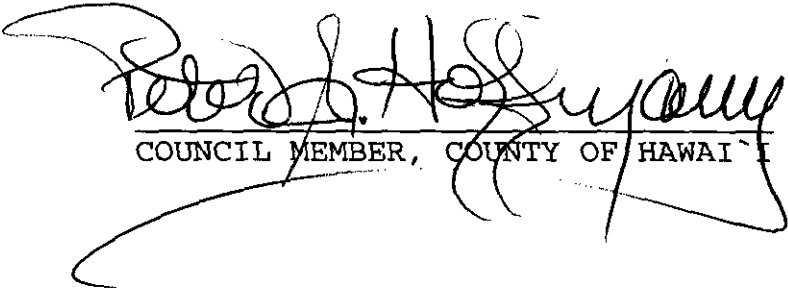
BE IT FURTHER RESOLVED, that the Mayor is authorized to designate the Housing Administrator of the County of Hawai'i to serve as the designated County Official to administer the "Experimental and Demonstration Housing Project" as provided by Section 46-15, HRS.

BE IT FURTHER RESOLVED, that copies of this Resolution be sent to the Office of Housing and Community Development, Department of Public Works, Planning Department and the Hawai'i Island Housing Trust.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Dated at Kona, Hawai'i, this 20th day of November, 2007.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAI'I

COUNTY COUNCIL  
County of Hawai'i  
Hilo, Hawai'i

ROLL CALL VOTE

I hereby certify that the foregoing RESOLUTION was by the vote indicated to the right hereof adopted by the COUNCIL of the County of Hawai'i on November 20, 2007.

ATTEST:

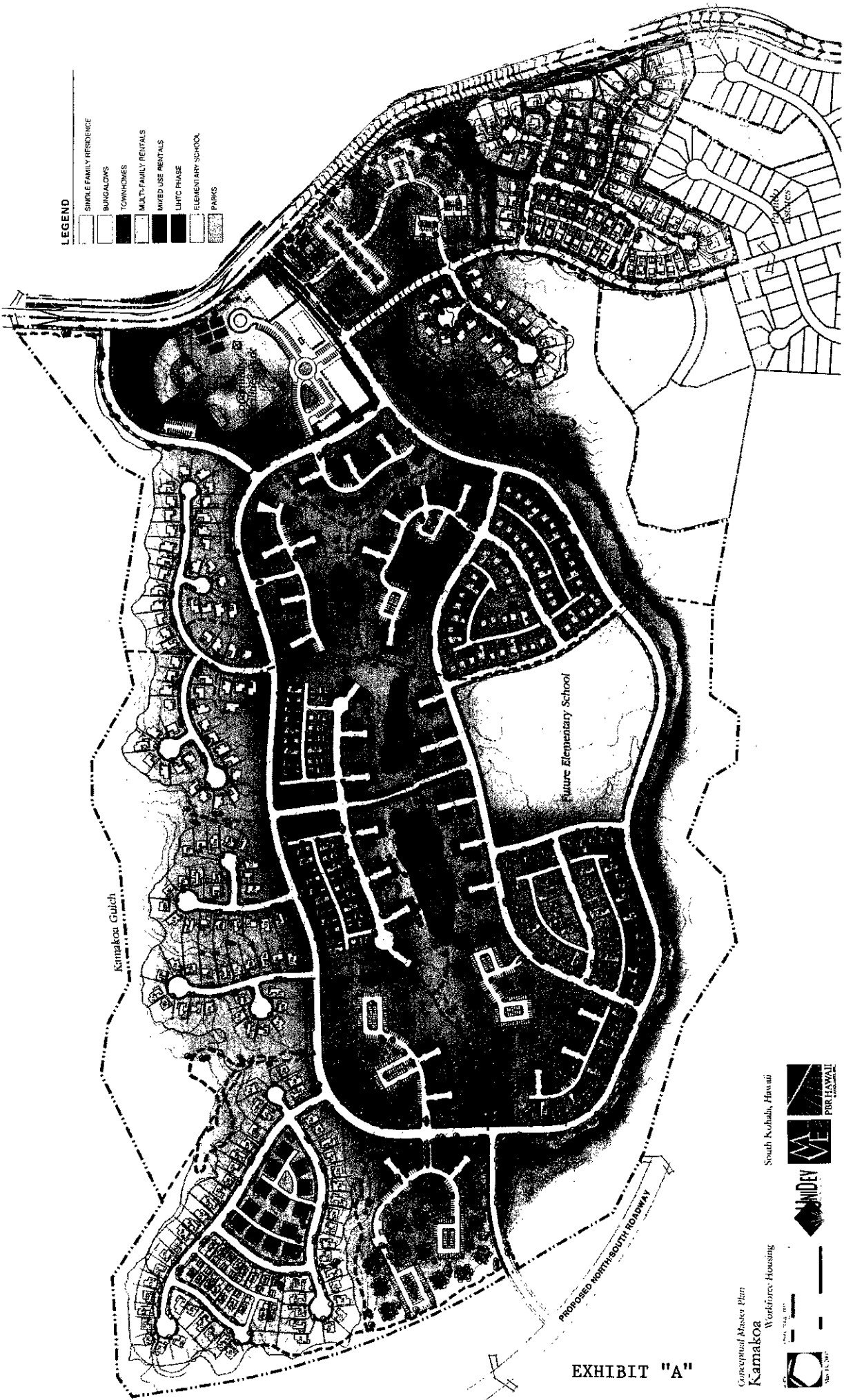
	AYES	NOES	ABS	EX
FORD	X			
HIGA	X			
HOFFMANN	X			
IKEDA	X			
JACOBSON	X			
NAEOLE	X			
PILAGO	X			
YAGONG			X	
YOSHIMOTO	X			
	8	0	1	0

  
COUNTY CLERK

  
CHAIRMAN & PRESIDING OFFICER

Reference C-798/CHA - 11/6/07

RESOLUTION NO. 416 07



- LEGEND**
- SINGLE FAMILY RESIDENCE
  - BUNGALOWS
  - TOWNHOMES
  - MULTI-FAMILY RENTALS
  - MIXED USE RENTALS
  - LIHTC PHASE
  - ELEMENTARY SCHOOL
  - PARKS

EXHIBIT "A"

Conceptual Master Plan  
**Kamakoa**  
 Workforce Housing

South Kohala, Hawaii

DATE: 11/11/2011

SCALE: 1" = 100'

67' R.O.W.  $\frac{1}{B-2}$  ROAD IN FRONT OF SCHOOL, PARKING ON BOTH SIDES

50' R.O.W.  $\frac{2}{B-2}$  CUL-DE-SAC, PARKING ONE SIDE

48' R.O.W.  $\frac{1}{B-3}$  PARK ACCESS ROAD, NO PARKING

94' R.O.W.  $\frac{2}{B-3}$  MAIN ENRTY ROAD, NO PARKING

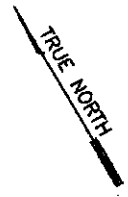
50' R.O.W.  $\frac{1}{B-4}$  COLLECTOR LOOP ROAD, PARKING ONE SIDE

60' R.O.W.  $\frac{2}{B-4}$  PARK ACCESS ROAD, PARKING BOTH SIDES

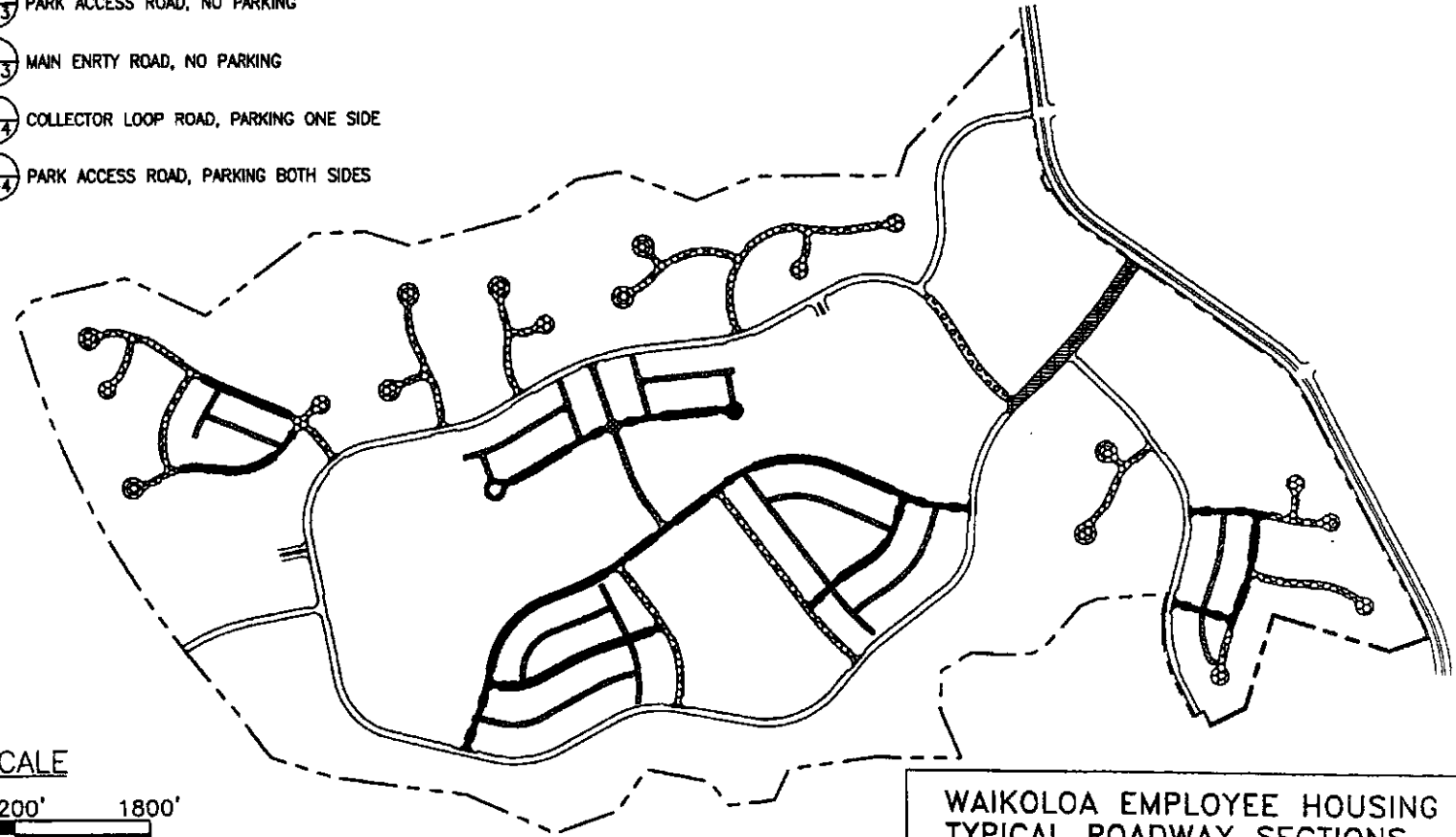
20' R.O.W.  $\frac{1}{B-5}$  ALLEY, NO PARKING

58' R.O.W.  $\frac{2}{B-5}$  CONE\NECTOR ROAD, PARKING BOTH SIDES

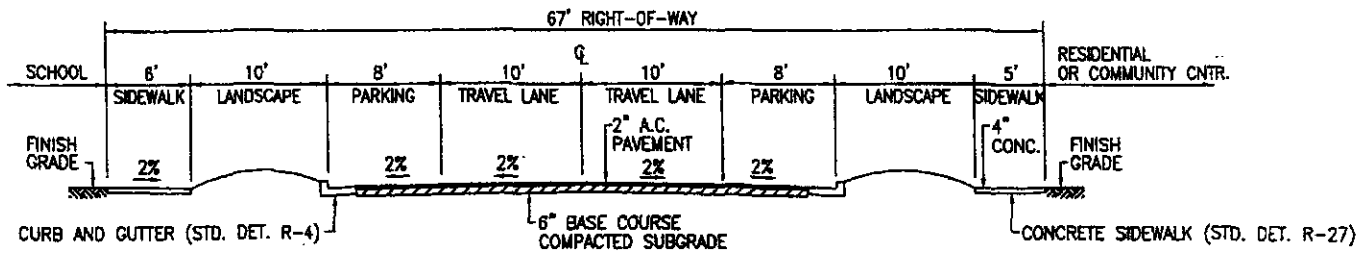
EXHIBIT "B"



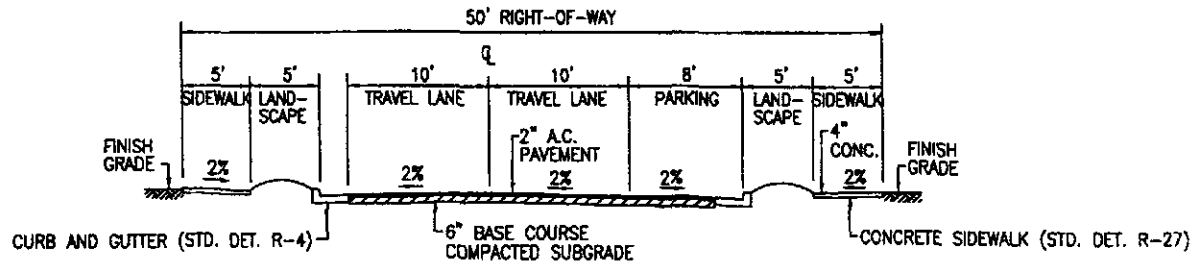
GRAPHIC SCALE



WAIKOLOA EMPLOYEE HOUSING  
TYPICAL ROADWAY SECTIONS  
EXHIBIT B-1

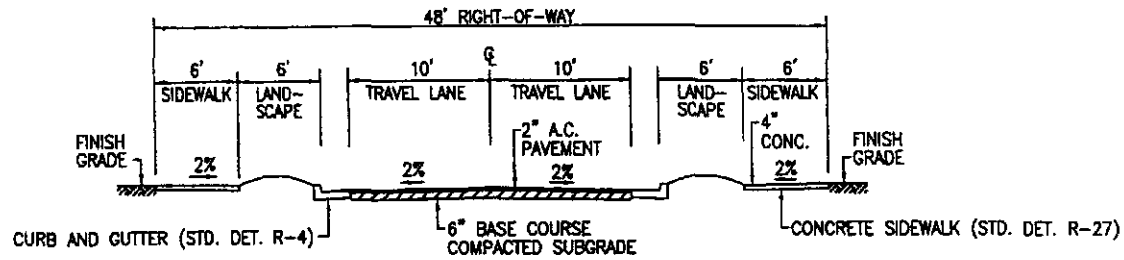


1 67' RIGHT-OF-WAY, ROAD IN FRONT OF SCHOOL, PARKING BOTH SIDES  
 B-2 SCALE: 1"=10'

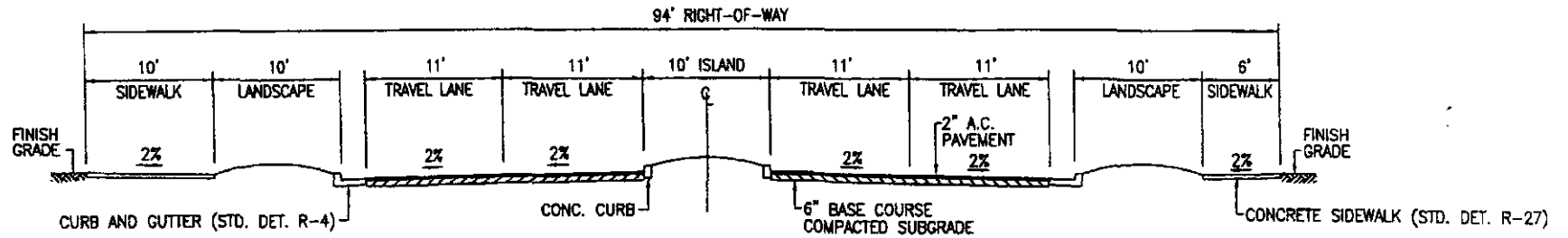


2 50' RIGHT-OF-WAY, CUL-DE-SAC STREET, PARKING ONE SIDE  
 B-2 SCALE: 1"=10'

WAIKOLOA EMPLOYEE HOUSING  
 TYPICAL ROADWAY SECTIONS  
 EXHIBIT B-2



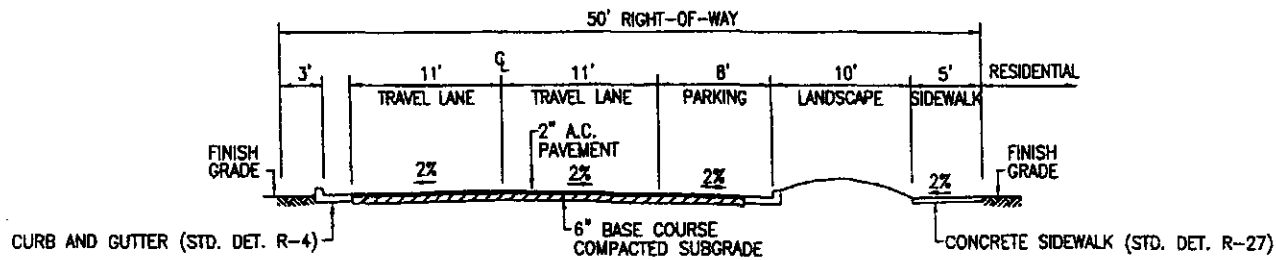
1 48' RIGHT-OF-WAY, PARK ACCESS ROAD, NO PARKING  
 B-3 SCALE: 1"=10'



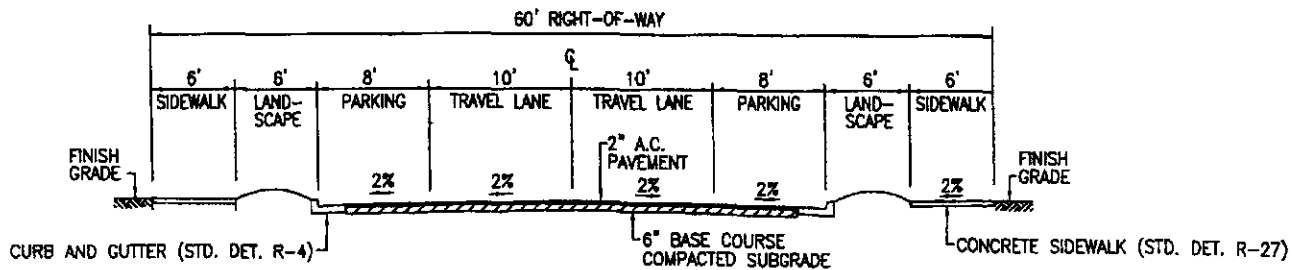
2 94' RIGHT-OF-WAY, MAIN ENTRY ROAD, NO PARKING  
 B-3 SCALE: 1"=10'

WAIKOLOA EMPLOYEE HOUSING  
 TYPICAL ROADWAY SECTIONS

EXHIBIT B-3

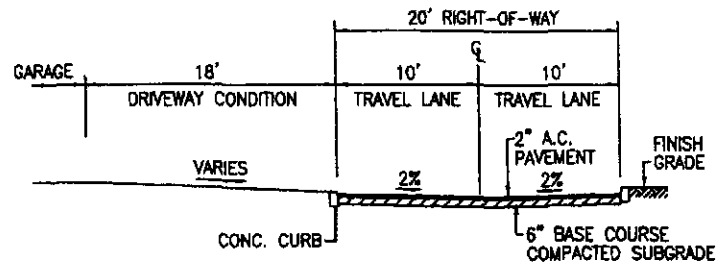


1 50' RIGHT-OF-WAY, COLLECTOR LOOP ROAD, PARKING ONE SIDE  
 B-4 SCALE: 1"=10'

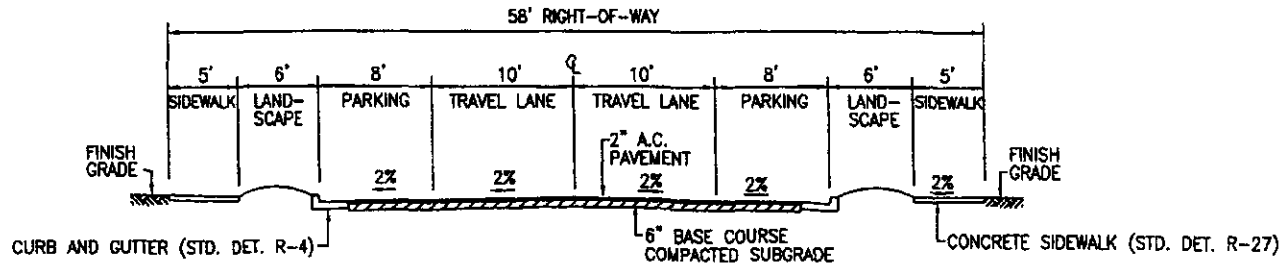


2 60' RIGHT-OF-WAY, PARK ACCESS ROAD, PARKING BOTH SIDES  
 B-4 SCALE: 1"=10'

WAIKOLOA EMPLOYEE HOUSING  
 TYPICAL ROADWAY SECTIONS  
 EXHIBIT B-4



1 20' RIGHT-OF-WAY, ALLEY, NO PARKING  
B-5 SCALE: 1"=10'



2 58' RIGHT-OF-WAY, CONNECTOR ROAD, PARKING BOTH SIDES  
B-5 SCALE: 1"=10'

WAIKOLOA EMPLOYEE HOUSING  
TYPICAL ROADWAY SECTIONS  
EXHIBIT B-5



# **KAMAKOIA**

## **(Waikoloa Employee Housing Project)**

### **List of Preemptions from the Hawaii County Code (HCC) and Hawaii Revised Statutes (HRS)**

#### **1.0 Site Plan**

##### **1.1 Article 3, Division 2, Section 23-29 (c) (Hawaii County Code). Block sizes.**

Waiving the recommended minimum distance between intersections on arterial streets.

The minimum distance between intersections on arterial streets will be less than the recommended eighteen hundred feet to accommodate the two main Project intersections with the planned extension of Paniolo Avenue (designated as a secondary arterial street on the County General Plan.) Intersection locations are reflected on construction plans for the extension of Paniolo Avenue being prepared by Waikoloa Heights, developers of the adjoining subdivision, which will be reviewed and approved by the Director of Public Works.

##### **1.2 Article 3, Division 3, Section 23-32 (Hawaii County Code). Lot size, shape, and setback line.**

Waiving the requirement of Section 23-32 that the lot size, width, shape, and orientation and minimum building setback lines be in conformance with the provisions of Chapter 25, Zoning Code.

Lot sizes, shapes, setbacks will vary from that specified within the County Code to accommodate a mix of product type, increase the efficiency of the land use, and thus yield a more compact and pedestrian oriented development. The widths, shape and setback lines for such lots will conform to specific standards approved by the County Council for the Waikoloa Employee Housing Project (Project), as detailed below.

**1.3 Article 3, Division 3, Section 23-33 (Hawaii County Code). Minimum Lot Sizes**

Waiving the requirement of Section 23-33 (a) that the minimum sizes of various types of lots shall be in conformance with the provisions of Chapter 25, Zoning Code.

The minimum lot size for the Waikoloa Employee Housing project will be twenty-five hundred (2,500) square feet, except for Town Home lots indicated in Exhibit "A-1", which shall have a minimum lot size of fifteen hundred (1,500) square feet.

**1.4 Article 2, Division 6, Section 25-2-61 (a) (Hawaii County Code). Applicability; use permit required.**

Waiving the provisions within Section 25-2-61 (a) requiring a use permit for meeting facilities, day care facilities, and schools.

Meeting facilities, a day care facility, and a public elementary school are uses specifically proposed for the Project as detailed below with regards to Section 25-5-3, Permitted Uses, (Item 1.9) and, therefore, use permits are not required for such uses.

**1.5 Article 3, Section 25-3-5 (Hawaii County Code), Application of district regulations.**

Waiving the requirement of Section 25-3-5 that any building, structure, or land use shall comply with all of the regulations specified in this chapter for the district in which it is located.

The building, structure, and land use will be in accordance with the specific regulations for the existing Residential Single-Family (RS-10) District approved by the County Council for the Project, as detailed below pertaining to Sections 25-5-2 through Section 25-5-8 (Items 1.8 to 1.14).

**1.6 Article 4, Division 1, Section 25-4-8. (Hawaii County Code). Temporary real estate offices and model homes.**

Waiving the requirements of Sections 25-4-8 (b) (2), (4), and (6) that state:

"(2) The temporary real estate office and/or model home shall not be used for a period longer than twenty-four months from the date of plan approval by the director; provided that extensions may be granted by the director. "

“(4) The temporary real estate office an/or model home shall be used exclusively for marketing of lots and/or units located within the development in which it is to be located. In multi-phased developments, a temporary real estate office or model home may be allowed for each development phase for a period not to exceed twenty-four months. Time extensions may be granted by the director. “

“(6) The temporary real estate office and/or model home shall comply with the minimum set-back and height requirements of the particular zoning district. “

In that units and homes, if sold by the first and subsequent owners, are to be sold back to the property leaseholder and developer, Waikoloa Workforce Housing, LLC; marketing and sales of homes within the Waikoloa Employee Housing Project will be an ongoing activity of the Project. Therefore, real estate offices and/or model homes shall be a permitted use in the Waikoloa Employee Housing Project, as specified below pertaining to Section 25-5-3 (Item 1.9) and there shall be no time limit as to their use. Furthermore, the maximum height limit and minimum yard requirements for a real estate office and/or model home shall be as specified below pertaining to Sections 25-5-4 and 25-5-7 (Items 1.10 and 1.13, respectively).

**1.7 Article 4, Division 4, Section 25-4-42 Corner Building Sites**

Waiving the requirements of Section 25-4-42 that states:

- a) On any corner building site, the interior lines shall be side lot lines and all rear yard regulations shall be inapplicable.
- b) On any corner building site in all zoning districts except in the CN district, within the area of a triangle formed by the street lines and such building site (ignoring any corner radius), and a line drawn between points on such street lines twenty-five feet from the intersection thereof, no fence, wall, hedge, or building shall be higher than three feet nor shall there be any obstruction to vision other than a post, column, tree trunk clear of branches or foliage, between the height of three feet and eight feet above the level of the street or the level of the point of intersection if the streets are sloping.”

**PROPOSED STANDARD**

For all corner building sites within the Project, there shall be one front and one side yard facing the intersecting streets and interior lot lines shall be considered side yards. All rear yard regulations shall inapplicable.

Additionally, for all corner building sites within the Project, the area of a triangle formed by the street lines and such corner building site (ignoring any corner radius), and a line drawn between points on such street lines fifteen (15) feet from the intersection thereof, no fence, wall, hedge, or building shall be higher than

three feet; nor shall be any obstruction to vision other than a post, column, tree trunk clear of branches or foliage, between the height of three feet and eight feet above the level of the street or the level of the point of intersection if the streets are sloping. For the purpose of traffic safety, all intersections will meet or exceed the American Association of State Highway and Transportation Officials (AASHTO) standards for intersection sight distances, as set forth AASHTO Policy of Geometric Design of Highways and Streets and as verified by the project engineer registered with the State of Hawai`i.

**1.8 Chapter 22, Article 2, Section 22-2.2 (Hawaii County Code). Intersection sight distance.**

Waiving the requirements of Section 22-2.2 that establishes a setback from intersections of County streets.

**PROPOSED STANDARD**

To preserve adequately vehicular sight distances at intersections of two or more County streets, no object with a height between three (3) feet and eight (8) shall be allowed within the area defined by the chord of an arc having a radius of fifteen (15) feet from the intersection of property lines or their extensions that form the intersection. All intersections will meet or exceed the American Association of State Highway and Transportation Officials (AASHTO) standards for intersection sight distances, as set forth AASHTO Policy of Geometric Design of Highways and Streets and as verified by the project engineer registered with the State of Hawai`i.

**1.9 Article 5, Division 1, Section 25-5-3 (Hawaii County Code). Permitted uses.**

Waiving the requirements of Section 25-5-3 (a). The permitted uses within the Waikoloa Employee Housing Project shall be as follows:

1. Adult day care homes
2. Churches, temples and synagogues
3. Commercial or personal service uses on a small scale
4. Community buildings
5. Community parks, playgrounds, tennis courts, swimming pools, or similar community neighborhood recreational areas and uses
6. Convenience stores
7. Day care centers
8. Dwellings, double-family or duplex
9. Dwellings, multiple-family
10. Dwellings, single-family
11. Family child care homes
12. Home occupations

13. Medical clinics
14. Meeting facilities
15. Model homes
16. Public uses and structures
17. Restaurants
18. Schools
19. Temporary real estate offices
20. Utility substations
21. Mixed use residential

**1.10 Article 5, Division 1, Section 25-5-4 (Hawaii County Code). Height Limit.**

Waiving the requirements of Section 25-5-4.

The height limit within the Waikoloa Employee Housing Project shall be forty-five (45) feet. Additionally, the Planning Director may permit by plan approval any non-residential structure to be constructed to a height above forty-five feet if the director determines that additional height above the forty-five foot limit is necessary.

**1.11 Article 5, Division 1, Section 25-5-5 (Hawaii County Code). Minimum building area.**

Waiving the requirements of Section 25-5-5 pertaining to minimum building site area.

The minimum building site area in the Waikoloa Employee Housing Project shall be fifteen hundred (1,500) for town home units, and twenty thousand five hundred (2,500) square feet for all other uses.

**1.12 Article 5, Division 1, Section 25-5-6 (Hawaii County Code). Minimum building site average width.**

Waiving the requirements of Section 25-5-6 pertaining to minimum building site average width.

The minimum building site average width within the Waikoloa Employee Housing Project shall be twenty (20) feet for town home units, thirty (30) feet for duplex units, and fifty (50) feet for all other uses.

**1.13 Article 5, Division 1, Section 25-5-7 (Hawaii County Code). Minimum yards.**

Waiving the requirements of Section 25-5-7 pertaining to minimum yards.

The minimum yards in the Waikoloa Employee Housing Project shall be eight (8) feet for front and rear yards and five (5) feet for side yards, except for town home units, which shall have no side yard requirements.

**1.14 Article 5, Division 1, Section 25-5-8 (Hawaii County Code). Other regulations.**

Waiving the requirements of Section 25-5-8. Other regulations for the Waikoloa Employee Housing Project shall be as follows:

- a) There may be more than one main building on any building site.
- b) The distance between the main buildings on the same building site shall be at least fifteen (15) feet
- c) One guest house, in addition to a single-family dwelling, may be located on any building site.
- d) Exceptions to the standards regarding heights, building site areas, building site average widths, and yards may be approved by the Planning Director with Plan Approval.

## **2.0 Subdivision**

**2.1 Article 3, Division 1, Section 23-22 (Hawaii County Code). Compliance with design standards required.**

Waiving the requirements that each subdivision and the plat thereof conform to the standards set forth in this article (Article 3. Design Standards).

The subdivision will vary from the design standards pertaining to park area dedication, block sizes, pedestrian ways, lot size, shape and setbacks, and street design; and waivers from these sections of the Subdivision Code are sought, as detailed below. The design and construction of the subdivision will conform to project construction plans approved by the appropriate County departments.

**2.2 Article 3, Division 3, Section 23-34. Access to lot from street.**

Waiving the requirements of Section 23-34 for town home units. Section 23-34 requires that each subdivided shall abut upon a public or approved private street.

Town home units within the Waikoloa Employee Housing project shall access onto a public street, via an easement over a private drive maintained by the Project.

**2.3 Article 3, Division 3, Section 23-35. Lot side lines.**

Waiving the requirements of Section 23-35 that states that the side lines of a lot shall run a tight angles to the street upon which the lot faces.

While lot lines within the Project shall generally run perpendicular to the street that the lot abuts, there will variation to the angle of the lot line to the street to accommodate irregular shaped lots and to maximize the lot layout in relation to the site topography.

**2.4 Article 4, Division 1, Section 23-60. Application fees for subdivision plans.**

Waiving the requirements of Section 23-60 for payment of filing fees for Project subdivisions.

In the interest of minimizing the cost to the developer, Waikoloa Workforce Housing, in providing affordable housing, filing fees for Project subdivision applications will not be required for the Project.

**2.5 Article 5, Section 23-76. No conveyance of land prior to approval for recordation.**

Waiving the requirements of Section 23-76 that states that "(l)and shall not be offered for sale, lease or rent in any subdivision, nor shall options or agreements for the purchase, sale leasing or rental of the land be made until approval for recordation of the final plat is granted by the director. "

In order to assure the greatest exposure possible to the intended workforce market, the developer, Waikoloa Workforce Housing, LLC, (WWH) intends to utilize many forms of advertisement, including, but not limited to, the use of the internet, publications, mailings, public announcements, or publicizing through other agencies and organizations with common goals; any one of which could be construed as an offering for sale, lease or rent. A waiver from the requirements of Chapter Section 23-76 is needed to provide WWH with greater latitude to more immediately market

and test consumer interest in the proposed leasehold product prior to receipt of final subdivision approval.

**2.6 Article 6, Division 1, Sections 23-81, 82 and 83 (Requirements for Bonding)**

Waiving the requirements of Sections 23-81, 82, and 83 to either complete subdivision improvements or provide a bond and agreement with the County as a condition of final subdivision approval and offering of sale.

The Project infrastructure will be financed with the County by means of a Community Facilities District (CFD) bond and/or County funding, as approved by the County Council. The approval of the CFD Bond or County funding by the County Council insures that adequate funding will in place for the construction of all subdivision related infrastructure, therefore, a bond and agreement for the completion of the required improvements and utilities shall not be a requirement of final subdivision approval and offering of sale.

**2.7 Article 7, Section 23-96 (Hawaii County Code) Inspection by director of public works and manger.**

Waiving the requirements of Section 23-96 pertaining to inspection by Director of Public Works and Manger.

Inspection will be conducted by the director of public works and manager or by Project inspectors approved by the Director of Public Works and Manger.

**2.8 Article 7, Section 23-97 (Hawaii County Code) Inspection fee.**

Waiving the requirement for inspection fee for inspections of subdivision improvements.

In the interest of minimizing the cost to the developer, Waikoloa Workforce Housing, in providing affordable housing, inspection fees will not required for Project related grading permit applications.



## **3.0 Grading and Drainage**

### **3.1 Article 2, Section 10-11 (Hawaii County Code), Fees**

Waiving the requirement for grading permit fees.

In the interest of minimizing the cost to the developer, Waikoloa Workforce Housing, in providing affordable housing, grading permit fees will not be required for Project related grading permit applications.

### **3.2 Article 3, Section 10-18 (a) (1), (2), and (3) (Hawaii County Code), Conditions of Permit**

Waiving the requirements of Section 10-18 (a) pertaining to the cut and fill heights and slopes.

Cut and fill heights and slopes for grading within the Project will be determined by the Project's licensed geotechnical engineer.

### **3.3 Article 3, Section 10-19, Distance from property line for cut or fill slopes.**

Waiving the requirements of Section 10-19 pertaining to the distance from the property line for cut or fill slopes.

Distances to the property line for cut or fill slopes within the Project will be determined by the Project's licensed geotechnical engineer.

### **3.4 Article 3, Section 10-20 (Hawaii County Code) Maximum cleared area.**

Waiving the requirements of Section 10-20 (HCC) that limits the maximum area to be cleared to twenty acres.

Erosion and sedimentation controls will be per a Department of Public Works approved Erosion and Sedimentation Control Plan for the Project or each subdivision increment of the Project.

## **4.0 Roads and Pedestrian Ways**

### **4.1 Article 3, Division 2, Section 23-31 (Hawaii County Code). Pedestrian ways.**

Waiving the requirement that, for any block over seven hundred fifty feet in length, the director may require creation of a pedestrian way to be constructed to conform to standards adopted by the Department of Public Works.

Sidewalks will be incorporated with roadways designs that will conform to construction plans approved by the Department of Public Works.

### **4.2 Article 3, Division 4, Section 23-41 (Hawaii County Code). Minimum right-of-way and pavement widths.**

Waiving the requirements of Section 23-41 for minimum right-of-way and pavement widths.

Rights-of-ways and pavement widths will be in accordance with construction plans approved by the County Department of Public Works. Plans and dimensions for typical Project roadways are shown on the attached Exhibits B-1 to B-5, Waikoloa Housing Typical Road Sections.

### **4.3 Article 3, Division 4, Section 23-48 (a) (Hawaii County Code). Cul-de-sacs.**

Waiving the requirements of Section 23-48 (a), which states:

“(a) A cul-de-sac shall be as short as possible and shall not be more than six hundred feet in length nor serve more than eighteen lots: provided that longer streets may be approved by the director when unusual conditions exist.”

Due to the relative smaller lot sizes and topographic constraints of the site, the maximum number of lots on a cul-de-sac will be twenty-six (26) lots and the maximum length of a cul-de-sac will be eight hundred (800) feet.

### **4.4 Article 3, Division 4, Section 23-52. Alleys**

Waiving the requirements of Section 23-52 that requires that “(a)t the street and alley intersections, ten feet corner radii shall be required.

The requirements for alleys shall be in accordance with construction plans approved by the County Department of Public Works. Plans and dimensions for typical Project roadways, including alleys, are shown on the attached Exhibits B1 to B5, Waikoloa Housing Typical Road Sections.

**4.5 Article 3, Division 4, Section 23-52. Private streets.**

Waiving the requirement of Section 23-53 that states; “No private street or alley shall be approved unless they are improved as specified under article 6, division 2 of this chapter.

The requirements for private streets within the Project shall be in accordance with construction plans approved by the County Department of Public Works. Plans and dimensions for typical Project roadways are shown on the attached Exhibits B1 to B5, Waikoloa Housing Typical Road Sections.

**4.6 Article 6, Division 2, Improvements Required, Section 23-86.**

**Requirements for dedicable streets;**

**Article 6, Division 2, Section 23-89. Sidewalks;**

**Article 6, Division 2, Section 23-90. Pedestrian way;**

**Article 6, Division 2, Section 23-91. Curbs and gutters;**

**Article 6, Division 2, Section 23-93. Street Lights;**

**Article 6, Division 2, Section 23-94. Street name and traffic signs; and**

**Article 6, Division 2, section 23-95. Right-of-way improvement.**

Waiving the requirements of the above sections which state that dedicable streets be designed in accordance with “specifications on file with the department of public works.”

Dedicable streets will be designed in accordance with construction plans approved by the County Department of Public Works. Plans and dimensions for typical Project roads are shown on the attached Exhibits B1 to B5, Waikoloa Housing Typical Road Sections.

## 5.0 Buildings

### 5.1 Section 26-17 (Hawaii County Code) License Fees

Waiving the requirements of Section 26-17 requiring licensing fees for the testing and inspection of fire extinguishing systems and portable fire extinguishers.

In the interest of minimizing the cost to the developer, Waikoloa Workforce Housing, in providing affordable housing, licensing fees will not be required for the testing and inspection of fire extinguishing systems and portable fire extinguishers within the Project.

### 5.2 Article 4, Division 1, Section 25-4-2 (Hawaii County Code). Conditions for construction of buildings designed for human occupancy.

Waiving the requirements of Section 25-4-2 which states:

- (a) "On any building site, no building designed or intended for human occupancy shall be constructed and no permit therefore shall be issued unless:
  - (1) the building site is served by a County water system or privately owned and operated water system, or other private, individual means of providing water to the building site is demonstrated; and
  - (2) a wastewater treatment system for the proposed building has been approved by the State department of health.
- (b) On any building site in any subdivision approved by the director under chapter 23 of this code, no building designed or intended for human occupancy shall be constructed and no permit issued therefore until either:
  - (1) The streets, drainage improvements, water supply system, if any, and sewage disposal system, if any, have been constructed, inspected and approved by the appropriate County agencies; or
  - (2) Final subdivision approval has been secured by the subdivider in accordance with chapter 23, by posting a surety bond or other security guaranteeing the construction of all of the subdivision improvements as shown on approved construction drawings and specifications, provided that final occupancy of any dwelling unit shall not be granted until the subdivision improvements for the particular increment in which such dwelling unit is situated have been constructed, inspected and approved by the appropriate County agencies. "

Construction of the Project water, streets, drainage improvements, and sewage disposal system will be constructed concurrent with the building construction. Therefore, building permits shall be issued prior to such systems having been inspected and approved by the appropriate County agencies. Provided, however, final occupancy of any dwelling unit shall not be granted until the subdivision

improvements for the particular increment in which such dwelling unit is situated have been constructed, inspected, and approved by the appropriate County agencies; and a wastewater treatment system for the proposed building has been approved by the State department of health.

Additionally, as detailed above pertaining to Sections 23-81 through 83 (Item 2.6), posting of a surety bond or other security will not be required as a condition of final subdivision approval for the Waikoloa Employee Housing Project. The Project infrastructure will be financed with the County by means of a Community Facilities District (CFD) or other County financing approved by the County Council. The approval of the CFD or other County financing by the County Council will insure that adequate funding is in place for the construction of the required subdivision related infrastructure. Final subdivision approval, however, shall not be issued prior Council approval of the CFD Bond financing or other County funding for the construction of the subdivision related infrastructure of the corresponding subdivision increment.

## **6.0 Sales – Preemptions from State Statutes**

### **6.1 Uniform Land Sales Practices Act (Chapter 484, HRS)**

Waiving the registration requirements of Chapter 484, Hawaii Revised Statutes (HRS) that provides that land “(n)o person may offer or dispose of any interest in subdivided lands located in this State before a preliminary or final order registering the subdivided land is entered.”

In order to assure the greatest exposure possible to the intended workforce market, the developer, Waikoloa Workforce Housing, LLC, may utilize many forms of advertisement, including, but not limited to, the use of the internet, publications, mailings, public announcements, or publicizing through other agencies and organizations with common goals; any one of which could be construed as an offering for sale, lease or rent. A waiver from the registration requirements of Chapter 484 is needed to provide WWH with greater latitude to more immediately market and test consumer interest in the proposed leasehold product prior to the final order registering the subdivision with the State.

### **6.2 Condominium Registration (Chapter 515B, HRS)**

Waiving the requirements of Chapter 515B, Hawaii Revised Statutes pertaining to condominium registration.

While there will be no condominium development within the Project, there may be some concern that the for-sale town home product may be construed as a condominium property regime as it is similar to other condominium developments

in its configuration. The town home product is unique as attached for-sale product, as each unit will stand on and be physically connected to its own subdivided parcel that will be made available to the buyer through a long term lease agreement. The waiver from the requirements of Chapter 515B is required to remove any possible condition whereby the requirements of condominium registration would apply to the sale of the town home product.

### **6.3 Real Estate Brokers and Salespersons (Chapter 467, HRS)**

Waiving the requirements of Chapter 467, Hawaii Revised Statutes, pertaining to the licensing requirements for brokers and sales persons.

The Waikoloa Workforce Housing Project will be unique in that, in an effort to maintain the affordability of the homes and avoid large brokerage fees, the Project plans to use its own sales staff. A waiver from the requirements of Chapter 467 is needed to provide greater flexibility in the hiring of sales staff and to help curtail the cost of maintaining an in-house sales staff.